

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

LIBERTY INSURANCE CORPORATION
AS SUBROGEE OF TIMOTHY ADLER,

Plaintiffs,

Civil Action No.: 3:21-cv-196

v.

GREPOW, INC. and
HORIZON HOBBY, LLC

NOTICE OF REMOVAL
JURY TRIAL DEMANDED

Defendants.

NOTICE OF REMOVAL

NOW COMES the above-named Defendant, Grepow, Inc., by its attorneys, McCoy Leavitt Laskey LLC, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and hereby gives notice of removal of the above-captioned action from the Circuit Court of Anderson County for the State of Tennessee, to the United States District Court for the Eastern District of Tennessee. In support of removal, Defendant alleges and shows to the Court as follows:

I. INTRODUCTION

1. On March 22, 2021, Plaintiff filed an action in the Circuit Court of Anderson County, State of Tennessee, styled *Liberty Insurance Corporation as Subrogee of Timothy Adler v. Grepow, Inc. and Horizon Hobby, LLC* and the case was assigned No. C1LA0027. A copy of the Complaint is attached hereto as **Exhibit 1**.

2. This is a civil insurance subrogation action in which the Plaintiff is claiming damages resulting from a fire loss that occurred on or about October 3, 2018 at a residence owned by Timothy Adler located at located at 515 Delaware Avenue, Oak Ridge, Tennessee. Plaintiff alleges that a battery designed, manufactured, assembled, distributed, or sold by Defendants

Grepow, Inc. and Horizon Hobby, LLC malfunctioned to cause the subject fire. The Complaint asserts claims for negligence and strict product liability against the Defendants. (**Ex. 1.**)

II. TIMELINESS OF REMOVAL

3. Plaintiff's counsel J. Chad Hogue filed the Complaint on March 22, 2021. Defendant Grepow, Inc. was served with the Summons & Complaint on May 5, 2021 by mail. (*See Exhibit. 2*, Affidavit of Xia Hong.) This Notice of Removal is timely filed because it is filed within thirty (30) days of May 5, 2021, the date on which Defendant Grepow was served with the Summons & Complaint. Grepow did not receive a courtesy copy of the Complaint prior to service by mail on May 5, 2021.

III. BASIS FOR REMOVAL – DIVERSITY JURISDICTION

4. The United States District Court has original jurisdiction over this litigation filed in state court based on diversity of citizenship of the parties. This case may be removed from the Circuit Court of Anderson County, State of Tennessee, to the United States District Court for the Eastern District of Tennessee, pursuant to 28 U.S.C. § 1332 because it is a civil action between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

5. Defendant Grepow, Inc. is incorporated in the State of California, has its principal place of business in and is deemed to be a citizen of California pursuant to 28 U.S.C. 1332(c)(1).

6. Based on publicly available information, Defendant Horizon Hobby, LLC is a limited liability company that is owned by Mill City Capitol L.P. and Armory Capitol, LLC. Horizon Hobby, LLC's principal place of business is in the State of Illinois.

7. Based on publicly available information, Mill City Capitol, L.P. is a limited partnership owned by Darren Acheson, Alexander Rutlin, and Gary Obermiller, all citizens of the

State of Minnesota, upon information and belief. Mill City Capitol, L.P. was organized under the laws of the State of Delaware and has its principal place of business in Minneapolis, Minnesota.

8. Based on publicly available information, Armory Capitol, LLC, is a limited liability company that is owned by Jacob Ambrose, Rusty Freeland, and Greg Lykins, all citizens of the State of Illinois, upon information and belief. Armory Capitol, LLC was organized under the laws of the State of Illinois and has its principal place of business in Illinois.

9. Plaintiff Liberty Insurance Corporation is incorporated in the Commonwealth of Massachusetts, has its principal place of business in Massachusetts, and is deemed to be a citizen of Massachusetts pursuant to 28 U.S.C. 1332(c)(1). Liberty issued a policy of homeowner's insurer to Timothy Adler effective at the time of the subject fire loss and made payments to and on behalf of Mr. Adler under said policy.

10. Timothy Adler, Plaintiff Liberty Insurance Corporation's insured, is a citizen and resident of Tennessee. (Ex. 1, ¶ 1.)

11. Plaintiff is claiming damages in excess of \$200,000 for property damage to the residence. (Ex. 1, ¶ 21.) The amount in controversy thus exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

12. This Court has diversity jurisdiction over this action pursuant to 28 U.S.C. §§ 1332 and 1441(a) because it is a civil action between citizens of different states and the amount in controversy exceeds \$75,000 exclusive of costs and interest.

13. Diversity of citizenship existed both at the time of the filing of the suit in state court and at the time of removal.

IV. CO-DEFENDANT HORIZON HOBBY, LLC CONSENTS TO REMOVAL

14. Co-Defendant Horizon Hobby, LLC consents to removal of this action pursuant to 28 U.S.C. § 1446(b)(2)(a).

V. VENUE

15. The subject fire loss forming the basis for this action occurred in Oak Ridge, Anderson County, Tennessee, making venue proper in the Eastern District of Tennessee. (**Ex. 1.**)

VI. FULL COMPLIANCE

16. Pursuant to 28 U.S.C. § 1446(d), Defendant Grepow, Inc. is filing this Notice of Removal with the clerk for the state court in which the State Court Action was originally filed. Copies of the Notice to the Circuit Court of Anderson County, State of Tennessee, together with this Notice of Removal with exhibits, are being served upon the Plaintiff through its attorneys of record pursuant to 28 U.S.C. § 1446(d). Counsel who has appeared on behalf of the Plaintiff in the state court action is:

J. Chad Hogue, Esq.
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Telephone: (615) 986-7700
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Defendant Horizon Hobby, LLC is also being served with a copy of the above-referenced documents care of its registered agent at the address below, as it has not yet appeared by counsel:

Horizon Hobby, LLC
c/o Cogency Global, Inc.
600 South Second Street, Suite 404
Springfield, IL 62704

WHEREFORE, Defendant Grepow, Inc. hereby removes the above-captioned action now pending against it in the Circuit Court of Anderson County, State of Tennessee, to the United States District Court for the Eastern District of Tennessee to assume full jurisdiction over this action as provided by law.

Respectfully submitted,

MARTIN TATE MORROW & MARSTON P.C.
Attorneys for Defendant, Grepow, Inc.

Dated: June 1, 2021

By: /s/ Christopher Myatt

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